NOVA SCOTIA

Office of Economic Development
Procurement Branch

Procurement Policy

Province of Nova Scotia
Policy on
Government Procurement

September 1, 2005

This publication has been produced by
the Procurement Branch of the Office of Economic Development. This document is available in electronic format at http://www.gov.ns.ca/tenders

A printed version can be obtained at the Procurement Branch, 6176 Young Street, Halifax, N.S. B3K 2A6. Telephone 902-424-3333, Facsimile 902-424-0622

106-05419/

Contents

1. Policy Objective 1
2. Definitions 1
3. Application 3
4. Procurement of Goods 3
5. Procurement of Services 4
6. Procurement of Construction 5
7. Procurement of Facilities 5
8. Alternative Procurement Practices 5
9. Other Considerations 8
11. Fair Treatment for Nova Scotia Suppliers 9
12. Bid Opening, Evaluation, and Award Information 9
13. Approvals, Audit, Reporting and Recording 10

1. Policy Objective

The objective of this policy statement is to establish and maintain a high level of confidence in the procurement process by ensuring that all public sector procurement is carried out in an open, fair, consistent, efficient, and competitive manner.

The Government of Nova Scotia is committed to

- ensuring that the government's requirements for goods, services, construction, and facilities are met through an open and fair process that provides the highest degree of competition and value to the Province
- ensuring that all bidders have reasonable notice and opportunity to tender
- fostering economic development by ensuring every capable Nova Scotia supplier has the opportunity to do business with the government
- encouraging Nova Scotia businesses to be competitive and to sustain quality product development
- adhering to the Agreement on Internal Trade and the Atlantic Procurement Agreement, which create economic opportunities for Nova Scotians
- treating out of province bidders in the same way as their jurisdictions would treat bidders from Nova Scotia
- being accountable to the public for procurement decisions

2. Definitions

For the purposes of this policy, the following definitions are provided.

Under Threshold/Delegated Procurement

For all under threshold/delegated procurements, departments are expected to, as far as practicable, obtain at least three quotes and award to the lowest competent bid received. When selecting the list of suppliers to be provided the opportunity to quote, departmental personnel are responsible to ensure a fair and open process is followed. While departments are to invite only qualified suppliers, they are not to consistently invite bids from only one or a select group of suppliers. Invitations and bidding opportunities are to be equitably distributed among all potential bidders in an area, and all interested and qualified suppliers are to be evaluated on a consistent and equitable basis. The following dollar values have been delegated to departments:

•	Goods	up to and including	$ 5,000
•	Services	up to and including	$10,000
•	Construction	up to and including	$10,000

Over Threshold/Public Tenders:

All procurements other that standing offers above $5,000 for goods and $10,000 for services or construction must be obtained through the Procurement Branch. This is done by submitting a purchase requisition through the CFMS (SAP) to the Procurement Branch. The Procurement Branch will make all tendering and advertising arrangements and place the tender documents and notice on the Nova Scotia Public Tenders Website.

Request for Proposal (RFP)

An RFP is used when a supplier is invited to propose a solution to a problem, requirement, or objective. Suppliers are requested to submit detailed proposals (bids) in accordance with predefined criteria. The selection of the successful proposal is based on the effectiveness, value, and price of the proposed solution. Negotiations with suppliers may be required to finalize any aspect of the requirement.

Request for Construction (RFC)

An RFC is used to tender for a construction, reconstruction, demolition, remediation, repair or renovation of a building, structure, road, bridge or other engineering or architectural work. When a supplier is invited to bid on a construction project the tender documents usually contain a set of terms and conditions and separate bid form that apply to that specific project. Suppliers are requested to submit a response (bid) in accordance with predefined criteria. The selection of the successful proposal is based on a number of factors as described in the tender documents. A request for construction usually does not include professional consulting services related to the construction contract, unless they are included in the specifications.

Request for Quotation (RFQ)

An RFQ is a request for quotation on goods or products with a minimum specification. Award is usually made to the lowest price meeting the specification. An RFQ does not normally but may sometimes include an evaluation criteria.

Request for Standing Offer (RSO)

An RSO is a tender to provide goods or service that are usually used across government departments or are department specific. The term of the standing offer can vary in duration but will be clearly defined in the tender documents. RSO's may include evaluation criteria depending on the requirement. Most RSO contracts are made available to the MASH sector (i.e., municipalities, academic institutions, school boards, and health authorities) should they wish to make use of the savings opportunities.

Request for Expression of Interest (REI)

The Request for the Expression of Interest is similar to the Request for Proposal and is sometimes referred to as a Pre-Qualification, where suppliers are invited to propose a solution to a problem. The REI, however, is only the first stage in the procurement process. Bidders responding to the REI will be short listed according to their scoring in the evaluation process.

The short listed firms will then be invited to respond to a subsequent Request for Proposal.

Department

In this policy "department" includes agencies, boards, commissions and offices that are subject to the Auditor General Act, or other public sector entities for whom compliance with this policy has been directed by the minister responsible.

Deputy Head

For the purposes of the document the Deputy Head is defined as the Deputy Minister, CEO or Chair of a Board.

Unsolicited Proposals

Unsolicited proposals are submissions from any source where the originator believes the proposal may be of benefit to the Province. These proposals are not in response to a tender call or other type of request from government.

3. Application

This policy applies to departments of the Government of Nova Scotia, effective September 1, 2005.

The Deputy Head of the issuing department is responsible for ensuring compliance with this policy.

Any employee of a department who has responsibility for the procurement of goods, services, construction, or facilities must adhere to this policy. Failure to adhere will be reported to the Deputy Head and may result in a temporary or permanent loss of procurement privileges.

Except as otherwise noted, this policy applies to all goods, services, construction, and facilities procured by purchase, contract, lease, or long-term rental.

The Minister responsible for the Office of Economic Development is responsible for promoting and implementing this policy.

4. Procurement of Goods

Goods with an estimated value of up to and including $5,000 may be acquired by departments at competitive prices in accordance with procedures established by the Procurement Branch. A preference may be given at the discretion of a department to goods manufactured or produced in Nova Scotia.
Goods with an estimated value above $5,000 will be posted on the Province of Nova Scotia Public Tenders website http://www.gov.ns.ca/tenders. In addition, a notice of tender opportunity may be sent to selected suppliers where required to ensure an adequate degree of competition.

In some cases bids may be evaluated not only on the price submitted but also on such factors as quality, delivery, servicing, and the capacity of the bidder to meet the criteria stated in the bid documents. Unless there is a valid and written rationale for the contract award, available for public review, the lowest competent tender will be accepted.

5. Procurement of Services

Services with an estimated value of up to and including $10,000 may be acquired by departments in accordance with procedures established by the Procurement Branch.

Services with an estimated value above $10,000 will be posted on the Province of Nova Scotia Public Tenders website http://www.gov.ns.ca/tenders. In addition, a notice of tender opportunity may be sent to selected suppliers where required to ensure an adequate degree of competition.

In order to establish the best value of the services offered, bids may be evaluated on price, qualifications, experience, past performance, and the capacity of the bidder to meet the criteria stated in the bid documents. Unless there is a valid and written rationale for the contract award, available for public review, the lowest competent tender will be accepted.

Insurance Services

All insurance service requirements valued at more than $10,000 will be acquired by public tender at intervals not greater than every five years. Insurance will normally be tendered based on major insurance service categories.

Major insurance services may be renewed on an annual basis up to the five-year maximum on terms satisfactory to the Province. Otherwise, the service may be put to tender at the annual renewal date.

Architectural, Engineering, and Surveying Services

These services will be acquired based on the requirement as outlined in the Government of Nova Scotia Procurement Process: Architects & Professional Engineering Services http://www.gov.ns.ca/tenders/policy/pdf_files/A_E_services.pdf

The services of these professional groups will be obtained through a qualifications based selection process, which will include an assessment of competence, experience, cost, and other factors specific to the requirement as identified in the guidelines.

6. Procurement of Construction

Construction requirements with an estimated value of up to and including $10,000 may be acquired by departments at competitive prices, in accordance with procedures established by the

Procurement Branch.

Construction requirements with an estimated value above $10,000 will be posted on the Province of Nova Scotia public tenders website http://www.gov.ns.ca/tenders In addition, a notice of tender opportunity may be sent to selected suppliers where required to ensure an adequate degree of competition.

Construction competitions will be carried out in accordance with the Construction Contract Guidelines http://www.gov.ns.ca/tenders/policy/CCG/ccg_n98.pdf developed in collaboration with the Department of Transportation & Public Works and the Construction Association of Nova Scotia.

Bids may be evaluated on price, past performance, and the capacity of the bidder to meet the criteria stated in the bid documents. Unless there is a valid and written rationale for the contract award, available for public review, the lowest competent tender will be accepted.

7. Procurement of Facilities

All building leases will be acquired by way of public advertisement, as outlined in the Facilities Procurement Guide http://www.gov.ns.ca/tenders/policy/pdf_files/facilitiesprocfinal.pdf developed by the Department of Transportation & Public Works.

8. Alternative Procurement Practices

In order for the Procurement Policy to balance the need for open, competitive opportunity with the demands of urgent or specialized circumstances, alternative procurement practices have been created. These processes must be used only for the purposes intended and not to avoid competition or to discriminate against specific suppliers. To ensure that they are used appropriately, each department must consult where appropriate with the Procurement Branch on their use of alternative procurement practices. The rationale permitting the alternative procurement practice will be documented on the appropriate forms and will provide substantiation for the actions taken should they be required for audit purposes. Departments may apply for a permanent exemption for certain goods or services that are considered at the sole discretion of the Director of Procurement not to be subject to tender. Any such request will be in writing and accompanied by an Alternative Procurement form signed by the Deputy Head or his or her designate. The intention of the Procurement Policy is that the needs of government are to be addressed through the most open and competitive means possible, while recognizing that exceptional circumstances may occur.

Approval, Consultation and Reporting Process

Under Threshold/Delegated Procurement:

The Deputy Head may delegate signing authority for under threshold alternative procurement

transactions (goods from $1,000 up to and including $5,000 and services or construction from $1,000 up to and including $10,000) to the Executive Director or Director level for a given business area. A delegation of signing authority form must be submitted to the Director of Procurement including the list of those authorized to sign on his or her behalf and sample signatures. All such documentation (Alternative Procurement Forms) will remain at the Department and will be subject to audit by the Auditor General and or the Corporate Audit Division of Department of Finance. Failure to report alternative procurement practices as described under section 13 of this Policy may result in loss of such privilege. The Deputy Head will ensure persons with delegated signing authority will be held accountable for their actions. It is the Deputy Head's responsibility to ensure that all procurement activities by their Department are properly documented and recorded in the Province's Corporate Financial Management System. In all cases the Deputy Head shall remain accountable for the proper use of under threshold alternative procurement transactions within his or her Department.

Over Threshold/Public Tenders:

Departments wishing to make use of an alternative procurement practice for goods over $5,000 or services or construction over $10,000, (with the exception of an emergency) must consult the Procurement Branch to identify the most appropriate means by which to proceed with the satisfaction of the requirement. If in agreement, the department will make a request to their Deputy Head who will then approve or reject the recommendation. In case or cases of a disagreement between the department and the Procurement Branch the department may present the proposed alternative procurement to their Deputy Head for consideration and decision. The Deputy Head may delegate signing authority for over threshold alternative procurement transactions to an Acting or Assistant Deputy Head. A delegation of signing authority form must be submitted to the Director of Procurement including the list of those authorized to sign on his or her behalf and sample signatures. All documentation must be sent to the Procurement Branch for safe keeping and reporting. It is the Deputy Head's responsibility to ensure that all procurement activities by their Department are properly documented and recorded in the Province's Corporate Financial Management System. In all cases the Deputy Head shall remain accountable for the proper use of alternative procurement transactions within his or her Department.

Alternative Procurement Transactions may be used in circumstances such as those described below.

These circumstances are:

8.1 an **unforeseeable** situation of urgency or emergency where the good, service, or construction requirement cannot be obtained by means of open procurement procedures.

8.2 a situation where tendering could reasonably be expected to compromise government confidentiality, cause economic disruption, or otherwise be contrary to the public interest.

8.3 to ensure compatibility with existing products; to recognize exclusive rights, such

as exclusive licenses, copyright, and patent rights; or to maintain specialized products that must be maintained by the manufacturer or its representative.

8.4 where, for technical reasons, there is an absence of competition, and the goods or services can be supplied only by a particular supplier and no alternative or substitute exists.

8.5 the procurement of goods or services for which there is a statutory monopoly that is controlled by a supplier.

8.6 the purchase of goods on a commodity market.

8.7 work to be performed on or about a leased building, or portions thereof, that may be performed only by the lessor.

8.8 work to be performed according to the provisions of a warranty or guarantee.

8.9 the procurement of a good or service to be developed in the course of and for a particular contract for research, experiment, study, or original development, but not for any subsequent purchases.

8.10 the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases.

8.11 the procurement of original works of art.

8.12 the procurement of subscriptions to newspapers, magazines, or other periodicals.

8.13 processes that foster the development of minority businesses.

8.14 processes that foster the development of sheltered workshop programs.

8.15 goods intended for resale to the public.

8.16 goods and services from persons with disabilities, philanthropic institutions, or through employment equity programs.

8.17 services of expert witnesses, specifically in anticipation of litigation or for the purpose of conducting litigation.

8.18 medical services for persons in the care and custody of the Province.

8.19 procurement of goods or services from another level of Government.

8.20 unsolicited proposal

Unsolicited Proposals

Where an unsolicited proposal is received, the government may consider a range of options, including a pilot project, partnership, or other arrangement, that will be undertaken to assess the merit of the proposal as stated in the Guide to the Submission & Evaluation of Unsolicited Proposals http://www.gov.ns.ca/tenders/policy/pdf_files/unsolprofinal.pdf

All unsolicited proposals will require an alternative procurement approval by the Deputy Head of the sponsoring department and/or Director of Procurement.

9. Other Considerations

Amendments

This policy may be amended from time to time with the approval of the Executive Council. Such amendments will be communicated to the public.

Cooperative Procurement

The government encourages the joint procurement of goods and services used by all levels of the public sector when the arrangement results in overall cost savings or other substantial advantages. Crown corporations and organizations in the MASH sector (i.e., municipalities, academic institutions, school boards, and health authorities) may participate when such an arrangement will benefit both their organization and the Province. The Province may from time to time enter into a joint procurement activity with other jurisdictions if deemed to be in the best interest of the Province.

Environmental Considerations

Where appropriate, the integration of environmental considerations into government procurement is encouraged. Procurement specifications will identify these considerations to ensure suppliers have a full understanding of the conditions to be met.

Vendor Complaint Process (VCP)

A method to handle supplier complaints and to improve the governments procurement process is an integral part of a fair and open procurement policy. As stated in the Vendor Complaint Process guide http://www.gov.ns.ca/tenders/policy/pdf_files/VendorComplaint.pdf it has been developed to facilitate this objective, allowing government to handle complaints in an organized, consistent manner, and to carry out the analysis and reporting requirements in order to improve upon the procurement process.

11. Fair Treatment for Nova Scotia Suppliers (Reciprocity)

Reciprocity

The Province of Nova Scotia has developed a reciprocity framework to ensure that its supplier community receives fair treatment in their dealings elsewhere in Canada. To help ensure fairness the Procurement Branch will consider and evaluate bids from other jurisdictions on the

same basis that those jurisdictions would treat a similar bid from a Nova Scotia supplier. Where a reciprocal treatment assessment could result in a change in an award decision the requesting department will be presented with the options available and will make the determination of which bid or bids will be awarded the contract. Any decision as made by the requesting department will be based on budget considerations and will be final and irreversible.

Nova Scotia Preference

Based on the principle of best value for government and when deemed to be in the best interest of the province, Departments may award tenders for goods manufactured or produced in Nova Scotia for under thresholds/delegated procurement ($5,000 value or less) on the following basis;

1st. Nova Scotia Manufactures
2nd. Nova Scotia Distributor
3rd. Atlantic Canada Manufacturers
4th. Atlantic Canada Distributors

12. Bid Opening, Evaluation, and Award Information

Bid Opening

Bid submissions are opened in public in accordance with the closing time, date, and place stipulated in the bid request. Members of the public may attend bid openings or may receive the information electronically after bid opening. All bid submissions are subject to evaluation after opening and before award of contract.

Bid Evaluation

Bids may be evaluated not only on the price submitted but also on quality, delivery, servicing, and the capacity of the bidder to meet the requirements and criteria stated in the bid request documents. The bid request documents must clearly identify the requirements of the procurement, the evaluation method, evaluation criteria and the weights assigned to each criteria.

Award Information

After contracts have been awarded, access to tender documents are subject to the provisions of the Freedom of Information and Protection of Privacy Act. On request, bidders are entitled to receive an explanation and a debriefing on their bid submission.

13. Approvals, Audit, Reporting and Recording

Approval

Where a procurement is to be undertaken that is an alternative procurement, an unsolicited proposal, or is the result of an unauthorized procurement transaction, the Deputy Head or person with signing authority in the client department must approve the procurement, in consultation with the Procurement Branch unless otherwise stated.

Audit

All procurement activities will be subject to audit by the Auditor General and the Corporate Audit Division of the Department of Finance. All procurement activities will be subject to compliance testing by the Procurement Branch to ensure compliance with Procurement Policy. The compliance testing results will be used for outreach and education programs. Any irregularities or concerns will be reported to the Corporate Audit Division of the Department of Finance.

Reporting

A monthly report of all under threshold alternative procurement transactions will be prepared by the departments procurement section and forwarded to their Deputy Head with a copy to the Procurement Branch for review. A quarterly report of all over threshold transactions will be prepared by the Procurement Branch and forwarded to the Deputy Head of each government department with a copy to the Minister responsible for Nova Scotia Government Procurement.

Recording

Departments must ensure that all procurement transactions are authorized, properly recorded in the procurement module of the Corporate Financial Management System (CFMS) (SAP), and supported by the appropriate documentation. Departments may request an exemption from the Procurement Branch for certain procurement transactions to be processed using the accounts payable module of the CFMS. Repeated failure to comply with the Procurement Policy may result in the Deputy Head withdrawing the procurement authority from an individual within a department, agency, board or commission.

For further information or clarification regarding government Procurement Policy please contact:

Rick Draper
Director of Procurement
Procurement Branch
P.O. Box 186
Halifax, Nova Scotia
B3J 2N2
phone: (902) 424-4557 fax: (902) 424-0844
e-mail: draperrc@gov.ns.ca